

27/12/2014

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (C) NO. 494 OF 2012

IN THE MATTER OF

Justice K.S. Puttaswamy (Retd)PETITIONERS
& another

VERSUS

Union of India & others RESPONDENTS

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FILED BY :-

(ANITHA SHENOY)
Advocate for Respondents
(State of Karnataka)

Filed on .12.2013

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TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA, NEW DELHI

STATEMENT OF OBJECTIONS FILED BY THE RESPONDENT –
STATE OF KARNATAKA

The Respondent - State of Karnataka respectfully submits as follows:-

1. It is respectfully submitted that at the outset, the Petition filed by the Petitioners is not maintainable either in law or on facts. Hence, the same is liable to be dismissed in limine.

2. The Respondent respectfully submits that the Petitioner above named has chosen to prefer the aforementioned Writ Petition under Article 32 of the Constitution of India inter alia

seeking issuance of a writ in the nature of mandamus restraining the Respondent Nos.1 to 3 from issuing Aadhar Numbers by way of implementing its executive order dated 28.01.2009.

3. The Respondent respectfully submits that this Hon'ble Court vide order dated 23.09.2013 passed in the aforementioned Writ Petition inter-alia has been pleased to direct that "no person should suffer for not getting the Aadhar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

4. The Respondent respectfully submits that this Hon'ble Court vide order dated 26.11.2013 passed in the aforementioned Writ Petition inter-alia has been pleased to direct that "after hearing the matter at length, we are of the view that all the States and Union Territories have to be impleaded as Respondents to give effective directions. In view thereof notice be issued to all the States and Union Territories through standing counsel."

5. The Respondent respectfully submits that the above said interim order passed by this Hon'ble Court on 23.09.2013, with great respect, has serious implication in the implementation of number of social welfare and other schemes and has created doubts in the minds of several million residents of the State of

Karnataka who are beneficiaries under various schemes being currently implemented by the Union of India and the Government of Karnataka as also Public Sector Undertaking using Aadhaar Platform, regarding the validity and usefulness of the scheme. It is humbly submitted that management of funds and resources is a key component of the Public Finance Policy of the Government of Karnataka. Open ended commitments on a host of uncapped subsidies are recognized to be particularly problematic for fiscal credibility. The unequal distribution of the subsidies amongst the poor and the rich also necessitates corrective policy measures to be in place. Therefore, the roadmap of the Government for fiscal consolidation aims to contain and distribute subsidies through better targeting.

6. The Respondent respectfully submits that the Government of Karnataka has a long history in implementation of e-Governance projects. Information about residents in the State is already available in databases maintained by various Government agencies in the State. Cumulative of all the beneficiaries data records from all the Departments are estimated to be more than 750 million. Some of the departments holding such databases are:

1. Food and Civil Supplies – Ration Card for BPL families.
2. Pension Beneficiaries Data

3. Rural Development and Panchayath Raj – Rajiv Gandhi Rural Housing Scheme (RGRHCL)
4. Mahatma Gandhi National Rural Employment Guarantee Act (NREGA)
5. Women and Child Welfare Department – Bhagyalakshmi (Child Development Programme)
6. Department of Pre-University Education
7. Department of Public Instruction (Primary & Secondary Education)
8. Education Department (Technical Education)
9. Transport Department
10. Election Commission
11. Nemmadi

Many applications have been developed to enable the delivery of citizen services such as Nemmadi, Bhoomi, Bangalore One, Ration Cards for BPL etc. These systems have been functioning for a number of years now and information about residents and their interaction with Government is registered and stored in a dispersed set of databases and accessed through various software applications.

7. It is submitted that the State had envisioned the need for consolidation of various databases of the Departments to obtain realistic demography of the beneficiaries of various State Government and Central Government schemes for better planning and monitoring of the programs. In this aspect, the Department of e-Governance has the mandate of conceptualization of facilitating of all e-Governance initiatives in the State.

8. The Respondent respectfully submits that even before the UID project was planned to be implemented in Karnataka, the Government of Karnataka was already working on a concept paper of Karnataka Card Project. In fact, UID was on the same lines of the Karnataka Card Project. The basic idea was by identifying the residents vide a unique identity reference and by enabling use of this unique reference to obtain services delivered by various Government bodies, a database about the residents and their interactions with various Government agencies in the State could be gradually developed. The establishment of this identity will enable all Government agencies in the State to act in cohesion and deliver services to residents in an efficient and effective manner. Also residents can use the unique identity reference as a valid, authenticated and widely accepted identity proof to obtain services such as getting a telephone connection and driving license.

9. It is respectfully submitted that in Karnataka, an Empowered Committee, with the powers of Cabinet, was constituted under the chairmanship of Chief Secretary to take decisions related to implementation of Aadhaar Project in Karnataka as per Government Order No.DPAR 159 EGM 2009(P-1) dated 16.01.2010. The Centre for e-Governance, Bangalore has been designated as the nodal agency for implementation of

Aadhaar Project in Karnataka as per Government Order No.DPAR 159 EGM 2009(P-1) dated 17.12.2009.

10. It is respectfully submitted that the Centre for e-Governance, DPAR (e-Governance) entered into a Memorandum of Understanding (MOU) with UIDAI, according to which, Centre for e-Governance shall, on behalf of Government of Karnataka, gather demographic and bio-metric information from residents of Karnataka State as per the standards prescribed by the UIDAI and upload the same to CIDR (Central ID Repository) for further processing and generation of UID.

11. It is submitted that the Government of Karnataka has assisted UIDAI in developing proper process and technology testing for UIDAI, according to which, Centre for e-Governance shall, on behalf of Government of Karnataka, gather demographic and bio-metric information from residents of Karnataka State as per the standards prescribed by the UIDAI and upload the same to CIDR (Central ID Repository) for further processing and generation of UID.

12. It is respectfully submitted that Government of Karnataka in the enrolment process also enabled development of some best practices which are subsequently being adopted by UIDAI and other States, these include:

- a) Development of Electronic Document Management System, which enabled scanning of Proof of Identity and Proof of Address document submitted by the residents, at the time of enrolment itself and tightly coupling them with enrolment packets. This ensured that no physical copies of documents were needed to be collected from the residents and stored.
- b) Setting up of dedicated Project Management Unity by the Deputy Commissioners for management of UID enrolment operations in the districts.
- c) Defining and implementing Service Level Agreements (SLA) with the Enrolment Agencies, for ensuring compliance by agencies to the required process as laid down by UIDAI.
- d) Third Party verification of compliance to Service Levels by the Enrolment agencies.
- e) Dedicated Call Centre to aid the residents on process and documents required for Aadhaar enrolment and other queries related to Aadhaar.

13. It is humbly submitted that Government of Karnataka launched UID enrolment initially in two districts i.e., Mysore and Tumkur on a pilot basis. Based on the learnings and emerging from pilot districts, the enrolment was extended to other districts during June 2011 and was continued up to February 2012. Subsequently, Government started enrolments in Phase 2 during December 2012 and currently enrolment process is in progress. The enrolment activities are being carried out using the services of

Enrolment Agencies empanelled by UIDAI and selected through competitive process.

14. It is respectfully submitted that as on 30th November 2013, 4.35 crore residents of Karnataka (constituting 71.19% of population as per 2011 Census) have enrolled in UID programme. Out of this, 3.52 crore Aadhar numbers have been generated by UIDAI.

15. It is respectfully submitted that the empowered Committee for UID implementation periodically meets and reviews the progress relating to enrolment and related issues. It is submitted that from 1st April 2010 till date, 12 meetings of Empowered Committee have been held under the Chairmanship of Chief Secretary, Government of Karnataka for reviewing and guiding the process of enrolment.

16. It is also submitted that a Joint Working Group has been set up comprising representatives from Centre for e-Governance, the Nodal Agency and UIDAI Regional Office involving members from Technology, Process, IEC and Application teams. The JWG has been set up to ensure smooth implementation. Since August 2011, 17 meetings of the Joint Working Group have taken place.

17. It is respectfully submitted that Government of Karnataka is implementing several unique welfare oriented

programmes for the benefit of people of Karnataka. It is extremely important that these beneficiary oriented schemes (subsidy related schemes) are delivered in an efficient manner. Linking of the delivery of services of the Unique ID of residents has immense benefits in terms of:

- a. Unique identification and better target of services.
- b. Prevention of pilferages and leakages in the service delivery by eliminating duplicate and ghost entries.

18. It is respectfully submitted that a problem in reaching benefits to poor and marginalized residents is that they often lack the identification documents they require to receive welfare benefits. Aadhaar creates an identity for such sections and empowers them to claim their rights. Usage of Aadhaar is expected to improve benefits of the service delivery, especially to the poor and marginalized sections of the society through social inclusion.

19. The Respondent respectfully submits that recognizing the uniqueness and the advantages of UID number, Government of Karnataka approved the creation of Karnataka Resident Data Hub to enable integration of UID numbers to various service offered to citizens by Government, through a G.O.No.DPAR 7 PRJ 2010 dated 20.05.2011. Such a resident data hub involves the following activities.

i) Development of a State-wide Data Governance Framework and building secure and sustainable ICT infrastructure for the same;

ii) Development of a State level framework for seeding of resident databases of the departments with Aadhaar information and make the framework fully operational;

iii) Development of one single consolidated data hub for the State (KRDH) wherein key information about services availed by residents of the State will be maintained and constantly kept updated.

iv) Advise and also facilitate modifications of existing legacy software applications and databases of various other departments in the State as required to store Aadhaar information to deliver different services.

20. The Respondent respectfully submits that in line with the above Government Order and in collaboration with UIDAI, Centre for e-Governance has designed and developed KRDH as a platform to enable departments to "Seed" Aadhaar into the databases ACCURATELY and enable departments to "Cleanse" the duplicate and bogus database entries.

21. KRDH also provides Aadhaar based service delivery for Aadhaar based Direct Benefit Transfer (DBT) by developing module in enabling the department users to validate and associate Aadhaar with department's Beneficiary ID. It is submitted that 11 departments have taken action to seed the database with Aadhaar in respect of 21 schemes. So far, approximately 9.00 lakhs

Aadhaar numbers of beneficiaries have been seeded into the database.

22. It is humbly submitted that Government of Karnataka's annual plan outlay for 2013-14 is Rs.48,685 crores which is substantial.

The Aadhaar platform will ensure

- i) Accurate targeting;
- ii) De-duplication;
- iii) Reduction of fraud and corruption;
- iv) Process re-engineering of schemes for simpler flow of information and funds;
- v) Greater accountability;
- vi) Elimination of loss in subsidy transfer.

The use of Aadhaar for delivery of Government benefits would act as a tool for effective monitoring of various programs and schemes of the Government.

23. All other averments, which are not specifically traversed herein, are hereby denied as false and untenable.

WHEREFORE, it is prayed that this Hon'ble Court may be pleased to DISMISS the above Petition, in the interests of justice and equity.

DRAWN BY:

FILED BY:

(B.P.RUPA)
HIGH COURT
GOVT. PLEADER

(ANITHA SHENOY)
ADVOCATE FOR RESPONDENT
STATE OF KARNATAKA

IN THE SUPREME COURT OF INDIA
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WRIT PETITION (CIVIL) NO. 494 OF 2012

IN THE MATTER OF:

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...PETITIONERS

AND:

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... RESPONDENTS

AFFIDAVIT

I, ABDUL KHADEER, S/o Hakdad Khan, aged about 59 years, working as Additional Secretary to Govt., Department of Personnel and Administrative Reforms (e-Governance), M.S:Building, Bangalore, Karnataka State, do hereby solemnly affirm and state on oath as follows:

1. That I am authorized to swear the Affidavit in the above mentioned matter and I am well conversant with the facts and circumstances of this case. Hence I am competent to swear to this Affidavit.
2. That the Statement of Objections on behalf of Respondent - State of Karnataka herein accompanying this Affidavit has been drafted by Counsel on my instructions.



NO OF CORRECTIONS: ML

Abdul Khadeer

3. I have read and understood the contents of the same. I state that the statements made in paragraphs 1 to 23 of the accompanying Statement of Objections are true to my knowledge and legal submissions made therein are true to my information.

Asadul Haque
DEPONENT

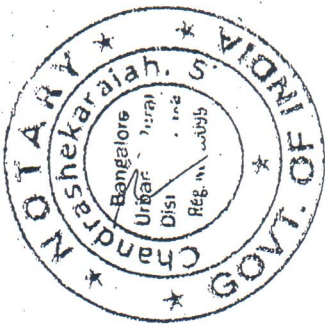
VERIFICATION

I, the Deponent above named, do hereby verify that the contents of paras 1 to 3 of the aforesaid Affidavit are true and correct to the best of my knowledge and record, no part of it is false and nothing material has been concealed there from.

Verified at Bangalore on this the 18th day of December 2013.

Asadul Haque
DEPONENT

NO OF CORRECTIONS : Nil



SWORN TO BEFORE ME
18/12/2013
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